UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

TONY FISHER, aka KELLIE REHANNA, Plaintiff, vs. FEDERAL BUREAU OF PRISONS, *et al.*, Defendants.	CASE NO.: 4:19-CV-1169 JUDGE SARA LIOI NOTICE OF FILING THE DEPOSITON OF ELIZABETE STAHL, D.O.

Plaintiff, Tony Fisher, aka Kellie Rehanna, by and through counsel, hereby notifies this Court and Defendants that the deposition of Elizabete Stahl, D.O. that was taken on July 21, 2021 (attached hereto) has been filed in this case.

Respectfully submitted,

/s/Edward A. Icove

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CERTIFICATE OF SERVICE

On August 27, 2021, this document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this through the Court's system.

/s/ Edward A. Icove
Edward A. Icove

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - -

ORIGINAL

Tony Fisher, aka Kellie Rehanna, Plaintiff,	)	
vs.	)	Case No. 4:19CV1169
	)	Sara Lioi, J.
Federal Bureau of Prisons, et al., Defendants.	)	

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Deposition of Elizabeth Stahl, M.D., a witness herein, called on behalf of the plaintiff for oral examination, pursuant to the Federal Rules of Civil Procedure, taken before Karen A. Toth, Notary Public in and for the State of Ohio, via Zoom, on Wednesday, July 21, 2021, commencing at 9:01 a.m.

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APPEARANCES:

On behalf of the Plaintiff:

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On behalf of the Defendants:

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Also present:

Kellie Rehanna

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MR. ICOVE: Josh, will you stipulate for the record that the court reporter can swear in the doctor by Zoom?

MR. GARDNER: Yes.

ELIZABETH STAHL, M.D.

Of lawful age, being first duly sworn, as hereinafter certified, was examined and testified as follows:

CROSS-EXAMINATION

By Mr. Icove:

Q Good morning, Doctor. My name is Ed Icove and I represent Tony Fisher, aka Kellie Rehanna, who I will be referring to as Kellie.

Obviously based upon your preference you can refer to her any way that you'd like.

Today's deposition is being taken pursuant to agreement of counsel. And you are designated to testify, as you note, on Items 3 through 7 of the Amended Rule 30(b)(6) Notice which was filed on July the 14th in the case Tony Fisher versus Federal Bureau of Prisons, et al., case number 4:19CV1169 in the United States District Court, Northern District of Ohio, Eastern Division.

We are going to cover those topics

first and after those topics have been covered I will just ask you a few more questions.

Have you ever had your deposition taken before?

A Yes.

Q So you understand the basic ground rules. If you don't understand something you can ask me to rephrase it. Although this is formal and we're doing it under oath, it's more like a conversation just so that we can get information from you and find out information that you can give to us that will enlighten us on this case.

A I understand.

Q So if you have a problem with a question of mine please feel free to ask me to rephrase it?

A Thank you. I will.

Q Okay. Just as a little bit of a background because I don't have any on you in writing, what is your position at the Bureau of Prisons?

A I am the incoming medical director. And I say incoming because there is a period of transition. The outgoing medical director is

still on duty until August 27th.
Q And that's Dr. Allen?
A That is correct.
Q And it's your understanding, that you're taking his place for today's deposition?
MR. GARDNER: Objection. I'm not exactly sure what you're referring to. We've designated Dr. Stahl as a 30(b)(6) designee.
MR. ICOVE: Okay. That's fine. Well, we'll get into the nitty-gritty, but that's fine.
Q So what is your current position?
A I'm the current medical director for the Bureau of Prisons.
Q Is that for the entire United States?
A Yes.
Q How long have you had that position?
A March 2nd of 2021.
Q And before that what was your position?
A I was a clinical director at FCC Allenwood in Pennsylvania.
Q How long were you there?
A From August of 2009 until I reported to D.C. on March 2nd.
Q Before that did you hold any other positions

at BOP?

A No.

Q Where did you work?

A Before then I was actually a resident. I was in resident training, physician resident training at Geisinger Medical Center in central PA.

Q How long were you there?

A I was there four years.

Q Could you briefly give me a couple sentences on your educational background and your board certifications?

A Sure. I graduated high school in Portugal. I then did a GED here in Rhode Island. I have a Bachelor's Degree in nursing. Graduated from nursing school at Rhode Island College in 1998.

I decided to then go to medical school, so in 2001 I went to medical school. I graduated in '05 from University of New England College of Osteopathic Medicine.

In July of '05 --

Q Can we take a quick break here for a second. The marshal is on the line for Tony or Kellie.

(Discussion off the record.)

MR. ICOVE: Thank you, Josh, for your understanding.

Q I think I just asked you a little bit about your educational background and what, if any, board certifications you have.

A Yes. So I think I had finished with my medical school graduation which was in June of '05. I then completed a four year residency training in combined internal medicine and pediatrics at Geisinger Medical Center in Danville, PA. And I am boarded by the American Board of Internal Medicine.

Q I'm sorry, I didn't hear that last statement.

A I am certified by the American Board of Internal Medicine.

Q Thank you.

Do you consider yourself to be a gender dysphoria specialist?

A No.

Q Have you ever treated Kellie?

A I never was a direct provider to the patient, no.

Q And it's also fair to say that you've never met her personally?

A Yes, that's correct.

Q And the first time you've met is on this Zoom which she's now listening to; is that fair?
A Yes.
Q Are you a member of the TEC?
A No.
Q Were you ever a member of the TEC?
A When the TEC was first formulated, which I am sorry, I don't remember those dates, I was asked to review a couple of patient charts in regard to their hormone levels, but that was very early on. And no, I was never a formal member of the TEC.
Q Besides reviewing hormone levels did you do anything else for the TEC?
A No.
Q So let's go through the items that are listed. Did you get a copy of those items?
A Yes, I did.
Q So let's look at number 3. Can you answer that particular question for us, please?
A Just for my benefit, because I did have an earlier version and then an amended version, it's --
Q I can read it to you. Why don't I do that.
A He just gave me the amended, so that's great.

Q Okay. Good.

A But to get my head in a good frame it is actually good to read it out loud, so I will do that. "Do the Defendants require any gender dysphoria experience, knowledge or otherwise of any clinician or contractor that treats inmate with gender dysphoria where Plaintiff is housed?"

So, Mr. Icove, how I would answer that is the Federal Bureau of Prisons as an agency expects every single institution in the nation to be able to provide gender-affirming treatment. And by and large gender-affirming treatment is provided by primary care providers both in the community and now in the Federal Bureau of Prisons.

With that in mind, the Bureau has participate, has shared continuous medical education programs for all of their providers to different -- many courses that have been done at the national level.

We also provide -- there is a committee, a working committee, a support committee that is called the Transgender Clinical Care Team which is composed of a

couple of physicians, a psychologist, pharmacist, social workers who are a support group for line providers at the institutional level.

So the answer -- does the Bureau require? The answer to that question is we do not have the requirement, or it's not written in policy or any regulatory body that I am aware that someone gets a specific certification in gender dysphoria; however we are all expected -- all institutions are able to have the means to provide gender-affirming care.

Q And as you indicated there is no specific documentation for that particular requirement; is that fair?

A Yes. And maybe the only exception to that would be for people who have had a special interest in this area of medicine, who have gone outside of the Bureau to participate in multiple continuous medical education courses.

I have done that. So I have my certificate of completion on having attended multiple of those courses through UCFF, WPATH, Harvard University, et cetera.

Q As you indicated, it's my understanding that that particular completion of those particular courses is strictly voluntary based upon the particular doctor involved?

A That is correct. And it's certainly the standard. We don't require or dictate what kind of education physicians get in regard to heart disease or diabetes. There are a number of other diagnoses. So we do depend on the self awareness of the providers to seek out those opportunities, even though we do provide a fair amount, including a clinical guidance document that pertains directly to gender-affirming treatment.

Q Okay. Are you aware whether or not the gender dysphoria specialist has ever reviewed Kellie's case?

A I did, in preparation for today, review in fair amount of detail. I can't say that I looked at every single document. I did not find an endocrinologist consultation, if that's the question.

Q Yes, that is. Yes. No endocrinologist or someone who is a specialist in gender dysphoria; is that fair?

A That is correct.
Q Okay. You mentioned documents that you reviewed. Do you recall -- and obviously I'm not going to hold you specifically to any one particular document, but do you recall what documents you reviewed? I assumed you reviewed a lot of stuff, but go ahead.
A I'm sorry, I didn't understand the question.
Q Yeah. That was a little convoluted. I apologize.

In preparing for responses to items 3 through 7 what documents did you review?
A I reviewed the medical record of the patient. I reviewed the WPATH, few pertinent items of the WPATH Version 7, and then the legal documents that Josh sent me.
Q Okay. Before we talk about legal documents, if they are legal documents from Josh to you about the case they may or may not be privileged. Just go ahead and identify them for the record.

What I'm concerned about is I don't want you to give me anything that is privileged on any advice or consult you had with Josh.

MR. GARDNER: I appreciate that, Ed. I think to reframe the question to make it easier for Dr. Stahl, Dr. Stahl did any of the legal documents I shared with you form a basis for your answering the 30(b)(6) topics?

THE WITNESS: The only documents I understand were forwarded from your office, and they were introducing to affidavits that I had to just be prepared to speak to during the course of this deposition.

Q Okay. Which affidavits were those; do you recall?

A So there is a clinical guidance -- I can list them.

MR. GARDNER: Just to be clear, I think she's referring to the four documents you had sent us.

MR. ICOVE: The declarations you sent me?

MR. GARDNER: No, no. So the four documents you had sent the court reporter and cc'd me on.

MR. ICOVE: Okay. Good.

MR. GARDNER: That's in the binder. That's what Dr. Stahl is referring to.

MR. ICOVE: Okay. Great.

Q So those particular documents, and those are Exhibits 1 through 4?

A Yes.

Q You looked at those. Okay. Great. Any other documents that you can think of?

A I can't think of any right now.

Q Okay. Good. If you do just let me know.

A Okay.

Q Was Kellie sent out to any outside gender dysphoria specialists in regards to her particular case?

A I did not see --

MR. GARDNER: Objection.

Q No, go ahead.

A No, I did not -- I saw that she had a urologist appointment at one point. I did not see an endocrinology consultation in her chart.

Q Okay. Let's go on to Question No. 4. Yeah, why don't you go ahead and read it.

A Question No. 4. The question is: "Do Defendants require any gender dysphoria experience, knowledge or otherwise of any staff or contractor responsible for creating

treatment plans for the Plaintiff?"

And again, Question 3 partially answered this question in that the answer is that the primary care provider who is a licensed independent medical provider, the physician, is ultimately in charge of all treatment plans for every patient over any diagnosis. So even if the plaintiff, the patient had gone out to secure and endocrinology appointment, in the end it's still the primary care provider who is the lead, the pilot physician, if you will, in developing a treatment plan.

So the same would apply again. The BOP does provide CME education courses, has a CME budget and allows physicians and advanced practice providers to participate in outside courses in gender specific courses, but there is nothing regulatory in policy that dictates any specific type of certification for these patients to receive care. And, in fact, in my opinion that would really preclude treatment if certifications were required.

Q Thank you very much for your explanation which I understand.

So based upon what you've told me, is it fair to say that neither Exhibit 1 nor Exhibit 2 that you were provided provide any requirements that are listed under Item Number 4?

MR. GARDNER: Objection. Vague.

A Repeat the question.

Q Yeah. You had previously testified that there weren't any specific documents that made these requirements when we talked about 3, and I'm just confirming that those requirements are not contained -- or any requirements are contained in Exhibit 1 or Exhibit 2?

A I'm going to --

MR. GARDNER: Objection. Vague.

Ed, I think to be clear, when you say requirements, can you just be specific what requirement we're talking about so the Doctor can gave you a clear answer?

MR. ICOVE: Exactly.

Q Is there anything specific in Exhibit 1 or Exhibit 2 which relate to the requirements under Item Number 4?

MR. GARDNER: Same objection.

A Can I ask a question?

Q Yeah, please.
A I'm wondering, are you asking is there any requirement for an endocrinologist consultation in either Affidavit 1 or 2? Is that the question? Whether our own policy or clinical guidance manual require a provider to involve an endocrinologist in the care of a trans patient; is that the question?
Q Yes, it is. And you're referring to those documents as affidavits. They are just exhibits.
A Okay. Exhibit 1. Sorry.
Q That's fine. That's fine. A rose by any name smells sweet. That's fine. I was just having you confirm it with those particular documents, because I couldn't see anything in there that had any of those requirements. I just wanted you to confirm that I'm not missing something.
A Yes, you are correct.
Q Okay. Good.

From a review of Kellie's medical chart -- let's go to Number 5.

A "What specialists have been consulted with regard to Plaintiff's care?"

Q Correct.
A And the only consulting that -- again, I might have missed. The only consultant that I know for a fact she did see for hematology workup was a urologist. It ended up being a negative workup.

I did not see any other specialist consultant, but I again did not do an entire document review of the medical chart.
Q Based upon the review you did, it fair to say that you didn't see any other referrals for an epidemiologist or a dysphoria specialist; is that fair to say?
A The -- so dysphoria specialists are an umbrella term that usually refer to psychologists. And she did have a fair amount of interaction to have mental health issues. According to the record there is a history of significant anxiety. And so she did have a fair amount of mental health work that was obvious in the chart.

But again, if you are referring to an endocrinologist, I did not see a referral to an endocrinologist.
Q Okay. Can you look at Question No. 6, please?

A The Question No.6. "Why did Defendants inform J. Barnes of the information contained in her clinical note dated January 19, 2018?"

I did go to the chart, to the medical record to review that particular entry, and I don't have -- so --

THE WITNESS: Do we have that?

MR. GARDNER: Yes.

Q Did you see Exhibit 3?

A If it's okay, I'd like the review it again.

Q Please do. Please do. Take your time. I'm not in any hurry.

A So the note in question here says the following: "Discussed case with Region over last several months as well as Chief Medical Officer who confirmed there is no sex reassignment surgeries being done at this time and it is still considered an elective medical procedure rather than medical necessity."

So my position, this note was written on January 19, 2018. And this does not reflect at all the position of the Federal Bureau of Prisons as an agency in general. And so I don't have a great explanation as to why this entry was made, but we have been

provided gender-affirming specific treatment for many years now and have presented national conferences encouraging gender-affirming treatment.

I actually had the opportunity to speak with the chief medical officer who was Dr. Allen who I share an office with at this time, to see if he recalls a conversation with Ms. Barnes, who is the author of this clinical note, and he does not remember a conversation with Ms. Barnes in this regard and confirmed that at the time as the medical director he has always encouraged and educated staff to provide appropriate community standard gender-affirming therapy.

Q So as I look this over, it's fair to say that I should talk to Ms. Barnes about this particular matter? That would be fair to say, correct?

A That would.

Q Thank you for talking to Dr. Allen about it.

Is there anything else that he informed you about as far as this entry was concerned?

A No. I mean, I asked him a very directed question about this particular entry.

Q Did he confirm -- is it true that there were no sex reassignment surgeries being done in January of 2018?

A So to this date I am not aware that a gender-affirming procedure has been completed; however, that has never been my policy. So just because it hasn't been done yet it just -- there are a number of factors why that might be the case. But it's never been the Bureau's policy to be against gender-affirming hormone treatment and/or gender-affirming surgery.

Q In regards to this response that you've given me, which I greatly appreciate it, is this particular response documented in any BOP manual or other document?

MR. GARDNER: Objection. Vague. Ed, just to be clear, what are you asking?

MR. ICOVE: Well, I don't know if she had a problem with it, but I'm more than happy to --

Q Doctor, did you understand my question?

A No, I didn't.

Q Okay. Well, I'll rephrase it. Thank you.

You indicated that from talking to

Dr. Allen and from your knowledge, the fact that there were no sex reassignment surgeries being done as of January of '18 is incorrect; is that what you told me?

A No.

MR. GARDNER: Objection. Mischaracterizes the witness's testimony.

Q What did you tell me?

A I told you that I asked Dr. Allen if he recalled a conversation with Ms. Barnes where he might have given her the impression that gender-affirming surgery was not medically necessary. This is a double negative sentence.

But essentially, in essence, he denied ever giving any person in the field the impression that gender-affirming surgery was not medically necessary.

Q So it BOP's position that gender-affirming surgery can be a medical necessity?

A It can, certainly. So all aspects of gender-affirming treatments are individualized and we know that only a small portion of trans or gender nonconforming patients end up needing surgery, but we do recognize that in

those cases it can be medically necessary. Absolutely.

Q And that's done -- and I don't mean to put words in your mouth, but that's done on a case-by-case basis?

A Yes.

Q And that particular policy is contained in one of the exhibits I gave you; is that fair to say?

A Yes.

Q Okay. Just for the record, could you identify where that's at?

A Did you --

Q I think it's page 19. Is that the page you got? Page 19 of Exhibit 1. I'm just trying to keep things moving.

A Yes. Yes.

Q That's all. Okay.

That's the first sentence of that particular paragraph?

A That's correct. Which states, "Although individuals may live successfully as transgender persons without surgery, gender-affirming surgery may be appropriate for some and is considered on a case-by-case

basis," yes.
Q And I just have one other question about this particular note that I'm confused on.
A Okay.
Q To the best of your knowledge, in January of 2018 had there been any sexual reassignment surgeries done?
A Not to my knowledge.
Q And as of today you're not aware of any; is that fair to say?
A Yes.
Q So BOP considers gender-affirming surgery to be elective; is that fair?
A No.
Q It's not elective? It can be necessary in a case-by-case basis, right?
A That is correct.
Q Okay. Thank you.
I'm sorry for this but I need to make sure that I understand your testimony. Thank you.
Let's go to Number 7, if we could please.
A Number 7, "Why requests for gender-affirming surgery have not been ripe for consideration

and approval over the past ten years;" is that the question?

Q Yes. Thank you.

A So from what I understand we have been trying to follow the WPATH criteria. And while the WPATH specifically references the expectation that gender-affirming therapy is provided at all institutions, there have been patients who just have not been able to meet all of the WPATH criteria.

So from what I understand we have not had -- and using your terminology -- a patient who has been ripe for the gender-affirming therapy. I am not aware of any case who has been submitted to the medical director's office for review of a gender-affirming procedure to this date.

Q And that determination would be by the medical director based upon the evaluation done by the TEC?

A So the medical director would have final clinical authority over the decision to pursue gender-affirming surgery by policy because it's considered an extraordinary type of surgery. So very similar to a solid organ

transplant, which is considered a medical necessary treatment. But because it's considered medically extraordinary it would be routed through and finally reviewed and approved by the Office of the Medical Director.

Q How do you define extraordinary for the purposes of severe physical impairments?

A I have to review that. I'd have to refer the policy to answer that.

Q Okay. That's fine. Is there a policy off the top of your head that you can think of or --

A I know it's in the patient care program statement for the Federal Bureau of Prisons. I would have to research the exact section that pertains to this language.

Q Okay. Well, if you could do that and give it to your counsel at your earliest convenience, that would be great.

Is there any other document that you're referring to to determine whether or not something is an extraordinary mental or physical disability?

MR. GARDNER: Objection. Misstates the witness's previous testimony.

Q Are there any other documents that you're aware of that relate to what is determined to be extraordinary medical/mental disorder?

MR. GARDNER: Objection. Mischaracterizes the witness's previous testimony.

Q Do you understand my question? Your attorney is allowed to make objections during this particular proceeding. He's not entitled to make speaking objections, but I really don't care because you're a professional and he's a professional and I'm a professional. But the rules provide he's not allowed to tip you off as to what to say or what not to say.

Can you answer the question, or do you need me to rephrase it?

A The part of the question that is confusing is when you are adding extraordinary mental disorder. I don't know what that means. So we have policy that --

Q Let's drop off -- excuse me. I don't mean to cut you off. Let's drop off the mental disorder, let's just talk about the physical disorder.

A Can you rephrase?

Q How does the BOP determine an extraordinary medical --
A Procedure.
Q Exactly.
A Yes. So we do have -- I'm only aware of one policy where that is covered and it is under our patient care program statement which we will provide.
Q Okay. Thank you so much. That's very helpful.
A Uh-huh.
Q Now, we talked about Question 7, and I wanted to know if you recall off the top of your head what research are you aware of that support a determination that gender-affirming surgery is not ripe over the last ten years?
A Can you rephrase the question?
Q Yeah. What reasons were you -- what reasons do you know, from what you've read and from what you've reviewed in your position that you're aware of that supported a determination that for over the last ten years gender-affirming surgery has not been ripe for consideration or approval?
A Okay. So there has been a number of factors

that have been challenging for most patients to be considered meeting all the requirements of WPATH. One, if there are co-existing medical or mental health conditions they need to be reasonably controlled before a surgeon will pursue gender-affirming surgery; 12 continuous months of hormone levels that are at goal, to meet the patient's goals. So when it's a trans they usually would need to be at 12 continuous months of at goal hormone levels. That can sometimes be a problem for some patients who are often noncompliant with treatment, forget to pick up their meds, sometimes they hoard their meds and stop taking them without telling anyone. So that's a challenge.

Being able to provide a gender-affirming experience in a opposite institution -- so for a trans female to be able to be located, transferred to a female institution for 12 continuous months without running into trouble, security issues with other prisons I know has been a challenge at times.

Those are probably the main factors I

would suspect that have contributed to not being able to meet all of the WPATH criteria.

And lastly maybe my -- another thought is that surgeons require letters of support for these procedures; one from a mental health worker and one from a medical provider. And so if there are noncompliance issues between the patient or if there is distrust issues between the treatment modality, if you will, that also will lead to further pause.

And again I will bring up the medical transplant of solid organs. While everyone agrees that at the end of your liver's lifetime that you would only live if you get a liver, that certainly is something that we recognize as necessary, but it doesn't mean that everyone is actually going to get that liver.

So while we recognize the medical necessity we certainly recognize that it does not entitle someone for that procedure.

So I know that was a long winded answer.

Q No, it was very informative and I appreciate it because you answered a lot of the questions that I have.

Are you aware of any other reasons besides the ones you've indicated?

A Those are -- I'm sure there are many other reasons. And again, because we make individualized decisions and every case is different from the next, but those would probably be the top three or four categories of major co-existing factors that go into this decision.

Q Are those particular factors from any source that you're aware of, or is this one that the department has put together itself?

MR. GARDNER: Objection. Vague.

Q Did you understand the question?

A No, I didn't. It was a little vague. If you could just narrow down or rephrase it and I'll be able to answer.

Q Do these particular criteria -- and you've mentioned four or five of them; are those from any particular document; for example, the WPATH? Are they from the factors of the WPATH or are they something that the Bureau has put together?

A Those factors are the criteria that I was going over that has been particularly

challenging for in-prison federal inmates to meet towards those specified by WPATH.

Q Good. So let's quickly go through those so far as what you've reviewed for Kellie.

It's fair to say that she has had a consistent well documented --

MR. GARDNER: Objection.

Q -- gender dysphoria?

MR. ICOVE: I'm sorry. I wasn't done with the question.

MR. GARDNER: I'm sorry. I thought you were, Ed.

MR. ICOVE: That's okay. By the way, Josh, just so you know, I will stipulate for the record that you are not going to waive any objection that you make during the deposition.

MR. GARDNER: I appreciate that.

MR. ICOVE: I do that with all counsel.

MR. GARDNER: I appreciate that. But we do object. Beyond the scope of the 30(b)(6) deposition.

You can answer to the extent of your knowledge.

A Sorry. So what is the question?
Q You know what, I'm sorry, I don't need necessarily to ask you. I don't need to ask these of you, I can ask these of somebody else.

MR. GARDNER: Ed, I was just going to say --

MR. ICOVE: I'm not going to quibble with you guys. There are plenty of people that I can ask this of, but it's just the thought that she was probably the best person.

MR. GARDNER: Just as a reminder, this isn't a speaking objection but just for your edification we are making Dr. Eplin available to answer exactly those types of questions.

MR. ICOVE: Great. Thank you.

I was going to ask her about that particular line of questioning. Thank you.

Q Is it your understanding that Kellie's diagnosis includes gender dysphoria, panic attack disorder and depression?

MR. GARDNER: Objection. Beyond the scope of the Rule 30(b)(6) deposition.

Again, I'm just making an objection.

MR. ICOVE: I'll tell you what, let's do this: At the end of the 30(b)(6) categories I will go ahead and ask the questions and we'll do it that way, which we had talked about before. Okay. I'm sorry.

Q You indicated that you have reviewed Kellie's record. Did you look at the record that had the most recent estrogen level? It was dated June 15, 2021.

A Yes, I did.

Q And what was that particular level?

A Her hormone levels were at goal. For a total testosterone it should be less than 55, and for an estradiol level it should be around 200.

Q So if there were more comparable levels in this range she would be at goal; is that fair to say?

A Any time that her total testosterone is less than 55 and that his estradiol level is around 200 she will be considered to have female level hormones, taking into consideration that a native female will have levels anywhere between the 80 to 200, sometimes 300 level.

So we do understand that with fluctuation of levels in a native female might be slightly different than we expect for gender-affirming therapy, which is why the American Endocrinology and the experts in this field believe that a level of estradiol around 200 is considered at goal.

Q Okay. So now I'm going to ask you a few other questions that aren't specifically -- although I think they are reasonably connection to your testimony. We'll start there. It will only take a minute or two.

Is it fair to say that Kellie has been diagnosed with gender dysphoria, panic attack disorder and depression?

A So I did not go into any detail over the mental health record. I do know from reviewing the medical portion of her medical record that panic attacks, anxiety in general, depression were mentioned. Yes, she has had a validated gender dysphoria diagnosis for quite some time.

Q And based upon your review of the records and your position, is it your opinion within a reasonable degree of medical certainty that

her gender dysphoria is a serious medical need?

MR. GARDNER: I'm sorry, Ed, you dropped off there.

MR. ICOVE: Karen, you want to read that back?

(Question read.)

MR. GARDNER: Objection. Beyond the scope of the Rule 30(b)(6). Also objection, lack of foundation.

MR. ICOVE: And for the record, I indicated these questions are in addition to the 30(b)(6). And my understanding, based on our conversation is I get a half hour to do these. So let's finish it up and get it done.

MR. GARDNER: Ed, that's not consistent with our understanding. We put Dr. Stahl up as a 30(b)(6) designee only. You did not seek to take Dr. Stahl's deposition in an individual capacity. I'm only going to give you a little bit of latitude if you have a few questions for her. Let's be clear this is not per agreement at all.

MR. ICOVE: Okay. Well, I'll be more careful next time we make agreements.

Our agreement was that any of the 30(b)(6) people that I wanted to testify to other issues, they would count as a separate half an hour deposition. And I'm sorry that we don't agree on that, but let's not waste any more time, okay?

MR. GARDNER: That's fine.

Q What is your position regarding why the gender-affirming surgery hasn't been completed for Kellie?

MR. GARDNER: Objection. Beyond the scope of the Rule 30(b)(6) deposition.

MR. ICOVE: I'll stipulate to your continuing objection on those bases. You can object every time you want to, but just as I indicated, I preserve those. And all these questions are going to be subject to the same objection.

MR. GARDNER: I understand.

Q Okay. Could you answer the question please if you can?

A Rephrase the question please.

Q I will.

Is it your understanding that Kellie was turned down for the surgery because she

didn't complete the requirements of her ability to be successfully transitioned to a female facility?

A Yeah, I actually cannot answer that question at all.

Q That's fine.

A Yeah. I don't have the knowledge of -- you know, I don't have enough knowledge of her medical care and all of the factors that weigh into her treatment plan to answer that question.

Q Right. And in answering the questions regarding people that have had surgery for serious medical conditions, and putting aside gender surgery, in the last five years or so what serious medical impairments were referred out for surgery for these inmates, just off the top of your head?

MR. GARDNER: Objection. Lack of foundation. Overbroad.

THE WITNESS: I don't know what he's asking.

A I'm sorry I don't even know -- I don't know the question. I don't understand the question.

Q That's fine. I'm asking you, regardless of what your attorney says, and, you know, he's really not allowed to tell you or give you any hint as to whether you should object or not object to something if you don't understand it. You're supposed to have a conversation with me. So let's -- I only got a couple more questions.

Are you aware of any other inmates that had been treated for serious medical impairments outside of the prison system? We talked briefly about it and we mentioned -- you mentioned -- I just wanted to follow-up.

A You mean any -- of course. Any serious medical conditions whose needs cannot be met at an outpatient clinic are referred out to medical hospitals and specialty centers.

Q Okay. And can you give me examples of those types of serious medical impairments? Obviously it wouldn't be all inclusive, but just off the top of your head.

A It could be a number of things. End stage kidney disease, cancer, referrals for cell organ transplants. I mean, the list is huge. Severe head trauma, and to include gender-

affirming treatment, if there are co-existing medical conditions that would flag the patient for high risk such as pre-existing cancer or even blood clotting disorders. There could be a number of complicating co-existing serious conditions in a gender nonbinary patient who would require comanagement by a subspecialist.

Q I don't have any further questions of you. You're entitled to -- I want to thank you very much for coming today and telling us what you know. You're entitled to review the deposition for any corrections, or you can waive your signature. That's up to you and your attorney.

MR. GARDNER: The witness will reserve the write to read and sign.

MR. ICOVE: Thank you. Let's go off the record.

(Deposition concluded at 10:06 a.m.)

(Signature not waived.)

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SIGNATURE PAGE

Case Name: Tony Fisher, etc., vs. Federal Bureau of Prisons, et al.

Case Number: 4:19CV1169

Deponent: Elizabeth Stahl, M.D.

Date: Friday July 23, 2021

To the Reporter:

I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me. I request that the following changes be entered upon the record for the reasons indicated.

I have signed my name to the Errata Sheet and the appropriate Certificate and authorize you to attach both to the original transcript.

_____
Elizabeth Stahl, M.D.

Subscribed and sworn to before me this

_____day of _____, 2025.

_____
Notary Public

My commission expires:_____.

I have read the foregoing transcript from page 1 through page 41 and note the following corrections:

PAGE-LINE	REQUESTED CHANGE	REASON FOR CHANGE

_____ _____

Elizabeth Stahl, M.D. Date

State of Ohio,)
) SS: CERTIFICATE
County of Cuyahoga,)

I, Karen A. Toth, Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, Elizabeth Stahl, was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the testimony then given by her was by me reduced to stenotypy/computer in the presence of said witness, afterward transcribed, and that the foregoing is a true and correct transcript of the testimony so given by her as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed without adjournment

I do further certify that I am not a relative, counsel, or attorney of either party, or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio on this 5th day of August, 2021.

Karen A. Toth, Notary Public in and for the State of Ohio.
My Commission expires May 6, 2023.

NOTARIAL SEAL STATE OF OHIO

I have read the foregoing transcript from page 1 through page 41 and note the following corrections:

PAGE-LINE	REQUESTED CHANGE	REASON FOR CHANGE
Page 11:24	UCSF, not UCFF	mis-transcribed
Page 19:4	hematuria, not hematology	mis-transcribed
Page 22:6	"by policy", not "my policy"	mis-transcribed
Page 30:23	"other prisoners", not "other prisons"	mis-transcribed
Page 40:24	"solid organ", not "cell organ"	mis-transcribed
throughout	The witness's first name is Elizabete, not Elizabeth, and she is a D.O., not an M.D.	error

ELIZABETE STAHL Digitally signed by ELIZABETE STAHL Date: 2021.08.09 15:16:43 -04'00'

Date

Elizabete Stahl, D.O.